

**SECRETARY OF STATE
TEXT OF PROPOSED REGULATIONS**

Add Sections 20700 through 20707 of Chapter 6.1 of Division 7 of Title 2 of the California Code of Regulations to read:

Chapter 6.1. Procedures and standards for reviewing voting systems, parts of a voting system, and ballot marking devices for certification or conditional approval.

§ 20700. Certification of Voting Systems and Voting System Equipment

(a) In deciding whether to certify, decertify or withhold certification, of a voting system, voting system procedures, or, part of a voting system under Division 19 of the Elections Code, the Secretary of State shall apply the standards entitled “Voting System Performance Standards (October 2013)” which are hereby incorporated by reference.

(b) The publication entitled “Voting System Performance Standards (October 2013)” may be accessed on the Internet at www.sos.ca.gov or obtained by submitting a written request to the Secretary of State, Office of Voting System Technology Assessment, 1500 11th Street, Sacramento, California 95814.

Note: Authority: Sections 19100, 19205, 19227, 19260, 19261, and 19265, Elections Code.

Reference: Sections 19201 and 19205, Elections Code.

§ 20701. Application

Any person, corporation, or public agency owning or having an interest in the sale or acquisition of a voting system or part of a voting system may apply to the Secretary of State for certification of such system. The application shall be in writing, on a form supplied by the Secretary of State, and shall include the following information:

- (a) Information about the applicant, including name, address, telephone number, and business address, if applicable;
- (b) Information about the voting system including, but not limited to, software and firmware version numbers;
- (c) A signed confidentiality agreement providing the Secretary of State, upon demand, source code for all software and firmware and a working model of the voting system;
- (d) A signed letter providing that the Secretary of State may receive all reports, testing documentation and trusted build installation disks directly from the appropriate federal Voting System Testing Laboratory (VSTL) who tested the voting system under the federal Election Assistance Commission's (EAC) or its successor entity's Voting System Testing and Certification process, if applicable;
- (e) Final VSTL test reports, if applicable, for the voting system;
- (f) Documentation showing if the voting system is federally qualified, if applicable;
- (g) A list of all commercial off the shelf (COTS) software, firmware and hardware that is either recommended or required to install, operate, and/or provide maintenance support for the system;
- (h) System configurations, option settings and definition parameters for all software, firmware and hardware (including COTS);
- (i) A directory listing of program, data, and support files required to install, configure, operate, and/or provide supplemental support for the voting system;
- (j) A description of known defects, faults or failures as defined in Elections Code section 19212.5, outstanding bugs, security vulnerabilities or other limitations of the system and any mitigations for each;
- (k) A detailed network diagram of what components are connected or related and how they are connected;
- (l) Use Procedures for the voting system;

- (m) Photographs of the voting system;
- (n) A list of jurisdictional users who use the exact version of the voting system being submitted;
- (o) A list of California jurisdictional users who are using a predecessor version of the voting system being submitted;
- (p) All financial relationships between the applicant and the manufacturer, distributor, or retailer of the various components comprising the voting system;
- (q) All the documentation necessary for the identification of the full system configuration submitted for evaluation and for the development of an appropriate test plan for conducting system certification testing, collectively referred to as the Technical Data Package (TDP) and as set forth in the “Voting System Performance Standards (October 2013).” The TDP provides information that defines the voting system design, method of operation, and related resources. It provides a system overview and documents the system’s functionality, hardware, software, security, test and verification specifications, operations procedures, maintenance procedures, and personnel deployment and training requirements; and
- (r) Any additional information the Secretary of State may request on an as needed basis from the applicant.

Note: Authority: Sections 19100, 19205, 19227, and 19262, Elections Code.

Reference: Section 19202 and 19212.5, Elections Code.

§ 20702. Deposit of Moneys into an Agency Trust Account

(a) After the Office of Voting Systems Technology Assessment of the Secretary of State’s office has received the application, it shall review the application and associated documentation and provide the applicant with:

(1) A list of any deficiencies.

(2) An estimated amount designated as the initial deposit of moneys into an Agency Trust Account sufficient to guarantee and reimburse the cost of any expenditures associated with the examination of the voting system, pursuant to California Elections Code section 19222.

(b) If the initial deposit is not sufficient to reimburse the cost of all expenditures associated with the examination of the voting system, the Secretary of State’s office will require an additional

deposit of moneys into the Agency Trust Account to be received by the Office of Voting Systems Technology Assessment of the Secretary of State's office as directed. If the Office of Voting Systems Technology Assessment of the Secretary of State's office does not receive such additional deposit of moneys as directed, the Secretary of State may suspend the certification process on the voting system.

(c) After all expenditures have been paid, the Office of Voting Systems Technology Assessment of the Secretary of State's office shall notify the applicant of any amount in excess of those expenditures. The applicant may request that the amount in excess of those expenditures be refunded or held in the Agency Trust Account for future testing and certification.

§ 20703. Application Complete Before Examination Begins

Only after the Office of Voting Systems Technology Assessment of the Secretary of State's office has received a completed application, including the deposit of moneys into an Agency Trust Account sufficient to guarantee and reimburse the cost of any expenditures associated with the examination of the voting system, may an examination begin. No application shall be deemed to be complete until all required documentation and moneys for examination have been submitted to the Secretary of State's office.

Note: Authority: Sections 19100, 19202, 19205 and 19227, Elections Code.

Reference: Sections 19202 and 19206, Elections Code.

§ 20704. Equipment to Submit for Testing

For the purposes of testing, the applicant shall provide for the testing process:

(a) At least one working model of the specific voting system under review for each phase of testing, if applicable, shall be provided to the Secretary of State for the duration of the testing process. Engineering or developmental prototypes are not acceptable. A working model of the specific voting system under review shall include:

1. All hardware, software and firmware necessary to run the system;
2. All COTS software, including necessary drivers;
3. All ballots, if applicable, in sufficient quantity for testing purposes;
4. All peripheral devices, including those required for usability and accessibility; and
5. Any other components which the manufacturer recommends for use with that voting system.

(b) Any other materials and equipment deemed necessary by the Secretary of State.

(c) The Office of Voting Systems Technology Assessment of the Secretary of State's office shall maintain one working copy of the voting system, in its certified configuration, for a minimum of one Gubernatorial or Presidential Election cycle.

Note: Authority: Sections 19100, 19205, 19227, and 19262, Elections Code.

Reference: Sections 19202 and 19212.5, Elections Code.

§ 20705. Examination

The Office of Voting Systems Technology Assessment of the Secretary of State's office shall conduct the examination of new voting systems seeking initial certification as well as for modified versions of systems that have been certified. The Office of Voting Systems Technology shall use expert technicians as provided in Division 19 of the Elections Code. The examination shall meet the standards established in the "Voting System Performance Standards (October 2013)."

Note: Authority: Sections 19100, 19205, 19227, 19262, Elections Code.

Reference: Sections 19202 and 19212.5, Elections Code.

§ 20706. Report of Findings and Hearing

(a) Upon completion of testing of the voting system and evaluation of the voting system Use Procedures, the Office of Voting Systems Technology Assessment of the Secretary of State's office shall, within 30 days, provide a staff report to the Secretary of State on the voting system, its Use Procedures and the impacts or effects of the voting system on voting in California. The staff report shall identify whether the voting system and its Use Procedures materially affect the lawful conduct, accuracy, efficiency, privacy or security of elections, or materially affects the convenience to the voter of the elections process. The examination of the voting system is deemed complete upon submission of the staff report to the Secretary of State.

(b) The Office of Voting Systems Technology Assessment of the Secretary of State's office shall schedule a public hearing to receive testimony and information on the proposed voting systems and procedures as provided in Elections Code section 19211.

Note: Authority: Sections 19100, 19205, 19227, 19262, Elections Code.

Reference: Sections 19202 and 19212.5, Elections Code.

§ 20707. Changes or Modifications to a Certified Voting System

(a) Any person, corporation, or public agency owning or having an interest in the sale or acquisition of a voting system or part of a voting system may submit a written request for review of any proposed change or modification to a certified voting system to the Secretary of State's office. All requests shall be submitted in writing to the Office of Voting Systems Technology Assessment at 1500 11th Street, Sacramento, CA 95814, or by email to votingsystems@sos.ca.gov.

(b) The written request for review for a change or modification shall, at a minimum, include:

- (1) Documentation supporting the need for each change or modification;
- (2) A list of every voting system component – hardware, firmware, or software – that interacts directly or indirectly with the voting system component or components for which administrative approval of a change or modification is requested;
- (3) Version numbers of all affected hardware, firmware, or software;
- (4) Classification of each modified hardware, firmware, or software component as either commercial off the shelf (COTS), third-party, or vendor-developed. Where applicable, the name of any third-party company that developed the modified component shall be included; and

(c) Any change or modification must be examined for conformance as set forth in the “Voting System Performance Standards (October 2013).”

(d) The applicant shall pay for all expenditures associated with the testing, pursuant Elections Code section 19222, in accordance to California Code of Regulations section 20702.

Note: Authority: Sections 19100, 19205, 19227, 19262, Elections Code.

Reference: Sections 19202 and 19212.5, Elections Code.